

SCHERTLER ONORATO MEAD & SEARS

January 16, 2024

VIA ELECTRONIC MAIL

Hon. Sidney H. Stein
United States District Judge
Southern District of New York
500 Pearl Street, Courtroom 23A
New York, NY 10007

MEMO ENDORSED

**Re: *United States v. Robert Menendez et al.*, Case No. 1:23-cr-00490-SHS
Nadine Menendez's Motion to Join Motions Filed By Co-Defendants**

Dear Judge Stein:

Defendant Nadine Menendez, through counsel, moves to join motions filed by co-defendants that may be applicable to her. Specifically, Ms. Menendez joins the following motions:

1. Senator Robert Menendez's First Motion to Dismiss the Second Superseding Indictment, filed on January 10, 2024. *See* ECF Nos. 119 (Motion), 120 (Memorandum in Support), 121 (Declaration).

Ms. Menendez supports Senator Menendez's arguments under the Speech and Debate Clause and joins and adopts his arguments that Counts I through III of the Second Superseding Indictment, which charge conspiracies to commit bribery, honest services fraud, and extortion under color of official right, fail to viably allege an agreement that involves the commission of an "official act" or a violation of "official duty" by Senator Menendez. *See* ECF No. 120 at 18-23 (addressing the "New Jersey Scheme"), 26-27 (addressing the "U.S. Attorney Scheme"), 28-29 (addressing the "Qatar Investment Scheme"), 29-30 (addressing the "IS EG Halal Scheme"), 32-33 (addressing the "Egyptian Aid Scheme"). If the Court does not dismiss Counts I through III, Ms. Menendez joins in Senator Menendez's request that allegations in the Counts that do not conform to *McDonnell* be struck from the Indictment. Ms. Menendez also moves to join Senator Menendez's argument that Count IV is unconstitutional as applied in this case under separation of powers principles and the First Amendment. *See* ECF No. 120 at 37-41.

2. Fred Daibes' Motion to Dismiss the Second Superseding Indictment, filed on January 15, 2024. *See* ECF Nos. 129 (Motion), 130 (Memorandum in Support).

Specifically, Ms. Menendez moves to join Mr. Daibes' (1) motion to dismiss Counts I and II of the Second Superseding Indictment for failure to state an offense (Point One), (2) motion to dismiss for not adequately alleging venue (Point Two), and (3) motions to dismiss Counts I and II of the Second Superseding Indictment for duplicitity (Point Three).

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3. Senator Robert Menendez' Motion to Dismiss Based on Lack of Venue and Duplicity, and to Sever Trials, filed on January 15, 2024. *See* ECF Nos. 136 (Motion), 137 (Memorandum in Support), 138 (Declaration).

Specifically, Ms. Menendez moves to join Senator Menendez' (1) motion to dismiss the Second Superseding Indictment for improper venue or, in the alternative, transfer this case to the District of New Jersey in the interest of justice (Points One and Two), (2) motion to require the government to file a new indictment with non-duplicitious counts or, in the alternative, provide a special jury verdict form (Point Three), and (3) motion to sever Senator Menendez from Nadine Menendez (Point Four, B).

4. Wael Hana's Omnibus Pretrial Motions, filed on January 15 and 16, 2024. *See* ECF Nos. 139 (Motion), 141 (Declaration of Wael Hana), 142 (Declaration of Lawrence Lustberg), 143 (Memorandum in Support).

Specifically, Ms. Menendez moves to join Wael Hana's (1) motion to dismiss Counts I and II of the Second Superseding Indictment for failure to charge an offense, or in the alternative, to require the government to provide a bill of particulars (Point One), (2) motion to dismiss Count IV of the Second Superseding Indictment for failure to charge an offense, or in the alternative, to require the government to provide a bill of particulars (Point Two), (3) motion to dismiss Counts I, II, and IV of the Second Superseding Indictment for Duplicity, or in the alternative, to require the government to elect a conspiracy on multiplicity grounds (Point Three), and (4) motion to dismiss for improper venue (Point Four).

Respectfully,

/s/ Danny Onorato

Danny Onorato

David Schertler

Paola Pinto

Counsel for Nadine Menendez

Dated: New York, New York
February 5, 2024

Defendant Nadine Menendez's request to join co-defendants' motions as set forth above is granted.

SO ORDERED:



Sidney H. Stein, U.S.D.J.

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